

Reluctant Radicals: How Moderates Shape Movements for Social Change

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- KRUSE, KEVIN M. 2005. *White Flight: Atlanta and the Making of Modern Conservatism*. Princeton, NJ: Princeton University Press.
- LASSITER, MATTHEW D. 2006. *The Silent Majority: Suburban Politics in the Sunbelt South*. Princeton, NJ: Princeton University Press.
- SOKOL, JASON. 2006. *There Goes My Everything: White Southerners in the Age of Civil Rights, 1945–1975*. New York: Alfred A. Knopf.

This essay reviews three books within the southern history literature on the white moderate's response to the civil rights movement; Kevin Kruse's White Flight: Atlanta and the Making of Modern Conservatism (2005), Matthew Lassiter's The Silent Majority: Suburban Politics in the Sunbelt South (2006), and Jason Sokol's There Goes My Everything: White Southerners in the Age of Civil Rights, 1945–1975 (2006). I examine how white moderates impacted the struggle for African American civil rights, and explore how this dynamic can help us understand the trajectory of the current debate over gay rights in the United States. I argue that while the US public ultimately came to support equal rights for African Americans, and has grown more tolerant of gay rights recently, they have been willing to do so only when these rights claims are framed as benefiting "deserving" segments of these populations. This shows that rights are, to some extent, contingent resources, available primarily to those citizens who fit certain ideal types, and suggests that those individuals who are unwilling (or unable) to live up to this ideal may ultimately fail to benefit from these movements.

I have almost reached the regrettable conclusion that the Negro's great stumbling block in his stride toward freedom is not the White Citizen's Council or the Ku Klux Klanner, but the white moderate, who is more devoted to "order" than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice Shallow understanding from people of good will is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

Martin Luther King Jr., "Letter from a Birmingham Jail"

This essay examines efforts to bring about social change from the perspective of moderate nonactivists by reviewing three books within the southern history literature on the white moderate's response to the civil rights movement: Kevin Kruse's

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White Flight: Atlanta and the Making of Modern Conservatism (2005), Matthew Lassiter's *The Silent Majority: Suburban Politics in the Sunbelt South* (2006), and Jason Sokol's *There Goes My Everything: White Southerners in the Age of Civil Rights, 1945–1975* (2006).¹ I use insights provided by these works to examine how the white moderate impacted the struggle for African American civil rights, and explore how this same dynamic can help us understand the trajectory of the current debate over gay rights in the United States. The need to appeal to moderates has exerted considerable influence over both movements. This has positive and negative implications for activists interested in bringing about social change. I find that activists succeed in appealing to moderates, in large part, by framing minority rights claims as benefiting “deserving” segments of these populations. This strategy has clearly benefited members of historically oppressed minority groups—the US public ultimately came to support equal rights for African Americans, and has grown more tolerant of gay rights recently.

However, I argue that the need to appeal to moderates may constrain efforts to bring about social change as well, by preventing members of minority groups who are deemed “undeserving” from accessing these same benefits. In the United States, our conception of whether someone is deserving is shaped powerfully by a culture that celebrates individualism and self-reliance. As a result, I argue that those members of historically oppressed minority groups who demonstrate these values, by adopting what is thought of as a middle-class lifestyle, are typically accepted as full and equal citizens. Those who do not are often seen as undeserving others, whose lack of success is the product of individual moral failings, not discrimination. This shows that rights are, to some extent, contingent resources, accessed most easily by those citizens who fit certain ideal types, and suggests that those individuals who do not conform to this ideal may ultimately fail to benefit from these movements.

This essay follows in the tradition of scholars who have advocated for a focus on the “common place of the law” (Ewick and Silbey 1998; Gilliom 2001; Lovell 2012). Many sociolegal scholars have examined how social movement activists appeal to average citizens by using rights language to lend legitimacy to their cause and broaden their base of supporters (Scheingold 1974; Zemans 1983; McCann 1994; Goldberg 2007; Dudas 2008; Wilson 2013). However, it can be difficult to understand how such discourse impacts average citizens, most of whom do not engage in political activism or initiate litigation. Scholars such as Kruse (2005), Lassiter (2006), and Sokol (2006) provide a rare window into how moderate nonactivists are impacted by these appeals. This perspective is important because it is this largely silent majority that determines the scope and pace of change that a society will embrace. Few elected officials are willing to risk their prospects for reelection by defying public will (Mayhew 1974). Even members of the Supreme Court, who are insulated from popular will, are loath to get too far ahead of the public on cultural issues, and typically weigh the mood of the country carefully when deciding cases with important social ramifications (Friedman 2010).

1. These works are part of a larger literature on the white moderate's response to the civil rights movement, which also includes scholarship by historians such as David Chappell (1994), Anders Walker (2009), and Joseph Crespino (2007, 2012).

I begin this essay by examining how appealing to moderates can be an effective mechanism for bringing about social change. In doing so, I focus my attention on the white southerner's reaction to the civil rights movement. While much of the historical literature on the struggle for African American civil rights has focused on the violent response of ardent segregationists, most white southerners reacted to this movement in a more moderate way. While these southerners were largely supportive of Jim Crow at the outset of the civil rights movement, most did not condone using violence to preserve segregation. The violent reaction to civil rights perpetrated by extremists alienated these moderates and gradually drove them to support integration. In this way, white moderates became "reluctant radicals." Most supported an end to Jim Crow segregation not because they embraced the cause of racial equality, but out of a desire to bring order to their lives.

Next, I explore how members of countermovements can use these same tactics as tools of retrenchment. Here I focus on how New Right conservatives were able to capitalize on the ambivalent racial attitudes of white moderates in the years following the civil rights movement. This was done by reframing racial inequality not as a product of discrimination, but as the result of individual choices. Rights language played an important role in this process, helping mask the way implicit discriminatory stereotypes and structural inequality continue to generate racially disparate outcomes, and making opposition to civil rights more palatable to a popular audience. This allowed New Right conservatives to effectively block attempts to address these problems through policies such as school busing and affirmative action. It also helped fuel support for tougher sentencing laws and welfare reform, which have been targeted primarily at "deviant" poor African American communities. These actions have helped blunt the impact of the civil rights movement. While the movement has had a positive impact on middle-class African Americans, it has done less to improve the lives of poor or working-class blacks.

Finally, I consider how these insights can inform our understanding of the current debate over gay rights. I argue that we can see a similar dynamic shaping this debate. While gays and lesbians have gained rights recently, those rights have come in the form of access to relatively conservative institutions such as marriage and the military. This trend is similarly reflective of middle-class values. It suggests that the gay rights movement is likely to improve the lives of gays and lesbians who are able (or willing) to participate in these institutions, but will have little impact on the lives of poor or working-class gays, many of whom are unable (or unwilling) to do so. In fact, it may further stigmatize these individuals by making their unequal treatment seem like the legitimate consequences of "deviant" individual choices, rather than the result of discrimination.

I. THE WHITE MODERATE AND THE CIVIL RIGHTS MOVEMENT

Most accounts of the civil rights movement spend little time discussing the white reaction to it. Those that do so have tended to focus on the more extreme elements of white southern opposition (see, e.g., McMillan 1971; Bartley 1974; Dittmer 1995; Eskew 1997; Eagles 2000; McWhorter 2001). This limited

perspective depicts southern racism as a cruel and violent institution motivated by white hatred of the other. Although this accurately describes the views of some, it paints an incomplete picture of the southern reaction to civil rights, thus making it possible to dismiss opposition to racial equality as a product of a bygone era, the work of bigots motivated by hatred and disgust. The more nuanced analyses provided by scholars such as Kruse, Lassiter, and Sokol suggest that the racial attitudes of most white southerners at this time were more complicated, and that these same attitudes continue to shape the fight for racial equality in the United States today.

The White Moderate and the Jim Crow South

Following the end of Reconstruction, a complex system of formal laws and informal racial mores emerged in the South, which strictly governed interactions between blacks and whites. This “southern way of life” permeated every aspect of the lives of southerners, and powerfully shaped their sense of self (Woodward 1955). Most white southerners could not imagine a world without segregation. They saw these racial mores as the foundation of their society, and believed the system protected the best interests of all southerners, including African Americans (Sokol 2006). Most white southerners clearly harbored racist attitudes toward African Americans at this time, but much of this racism was based on a sense of paternalism, not outright hatred. They believed that segregation protected the interests of African Americans by preventing interracial violence, and by keeping blacks, whom they saw as inherently inferior, from having to compete directly with whites (Woodward 1955; McGerr 2003, 182–218; Sokol 2006, 56–113).

In the North, blacks and whites lived in separate worlds, and had almost no interaction. In the South, however, African Americans and whites more often lived and worked in close proximity to one another. They frequently came into contact with each other in public places, and many blacks interacted regularly with whites while working as domestic servants in their homes (Woodward 1955, 12–29). Most white southerners came away from the brief interactions they had with African Americans in these contexts feeling like they understood how blacks felt about segregation. They believed that African Americans were happy living in their own communities, and that they did not desire to integrate with whites (McGerr 2003, 182–218; Sokol 2006, 56–113). This twisted logic ignores the reality that blacks were treated unequally under Jim Crow, instead recasting segregation as a voluntary separation of the races conducted largely on equal terms. This belief was crucial to preserving segregation, however, because it allowed white southerners to feel that this system was a legitimate product of choice, rather than the result of illegitimate discrimination.²

2. The myth that African Americans were complicit with regard to segregation persisted long after the civil rights movement began. White southerners reacted to African American calls for equal rights not by reconsidering their preconceived notions of them, but by dismissing the civil rights movement as being perpetrated by “outside agitators” such as northern liberals, Communists, and the NAACP, who were thought to be coming into the region from the North (Eagles 2000; Sokol 2006, 56–113).

The civil rights movement defeated this logic in large part by bringing disorder to the region. Civil rights activists often targeted areas such as Birmingham, Alabama, where they knew that southern law enforcement officials had a reputation for brutality and violence. This was done in the hopes that provoking a violent reaction from whites would spark a backlash and garner both local and national sympathy for the cause of civil rights (Chappell 1994; Klarman 2004). This strategy was generally successful.³ The resolve of civil rights activists eventually put to rest the notion that blacks were complicit with Jim Crow. The violent response of white extremists repulsed northern audiences but, perhaps more importantly, it repulsed most white southerners as well, causing them to grudgingly embrace steps to end segregation. The policy of massive resistance to *Brown v. Board of Education* (1954) further alienated white moderates. In places like Atlanta and New Orleans, southern whites were forced to choose between supporting the white citizens' counsels, which wanted to close down public schools completely, or civil rights activists, who wanted to desegregate them. Given these options, most chose what they thought to be the lesser of two evils, and grudgingly accepted integration (Kruse 2005, 131–60; Lassiter 2006, 23–118; Sokol 2006, 114–81). Thus, white moderates were motivated to end segregation, not by a desire for racial equality, but because they came to believe that preserving segregation would be more disruptive to their own lives than supporting integration.

The fact that many southern whites came to embrace desegregation without necessarily being convinced of the value of racial equality has had an important impact on the efficacy of the civil rights movement. Although whites accepted that integration needed to occur, most still believed that blacks were not equal to them (Kruse 2005; Sokol 2006). This inequality came to be seen, not as a product of racism, but instead as stemming from a variety of personal and moral failings rampant within the African American community. These beliefs shaped the way integration was implemented. For example, many southern governors responded to the Court's order to desegregate in *Brown* by attempting to move away from a system of formal racial segregation in schools to one in which black students were excluded from predominately white schools based on supposedly race-neutral factors, such as higher rates of illegitimacy, poverty, crime, and lower levels of academic achievement within the African American community (Kruse 2005, 150–51; Lassiter 2006, 94–118; Walker 2009). Southern politicians such as Mississippi Governor J. P. Coleman developed "pupil placement" programs based on these principles, which effectively prevented all but a few African Americans from attending predominately white schools (Walker 2009, 12–48). The logic behind such programs was that most blacks were not yet ready to integrate, and would only lower the standards of white students if admitted to their schools. This same logic would later help fuel opposition to school busing

3. The 1961 campaign in Albany, Georgia is frequently cited as King's greatest failure in large part because Police Chief Laurie Pritchett made a conscious effort to subvert this strategy by instructing his men to make mass arrests while avoiding the type of violent tactics used by people such as Sherriff Eugene "Bull" Connor in Birmingham (Chappell 1994, 122–46; Sokol 2006, 64–83).

programs, which were designed to address the problem of white flight to the suburbs and integrate schools in areas with increasingly segregated residential patterns (Lassiter 2006).

Most white southerners accepted integration reluctantly. They saw it as something that was being forced on them against their will, and believed that new rights for African Americans would come at the expense of their own (Kruse 2005). Southern whites argued, for example, that integration violated the economic rights of small business owners, who feared that serving blacks would risk alienating their white customer base (Kruse 2005, 194–204; Sokol 2006, 182–237), and homeowners, who feared that allowing blacks to buy homes in their neighborhood would drive down property values (Kruse 2005, 52–77; Lassiter 2006).⁴ They also argued that whites should have the right to choose whom they freely associate with, and should not be forced to eat with black diners or attend school with black students if they did not desire to do so (Kruse 2005, 161–79; Lassiter 2006; Sokol 2006, 114–81).

Using rights discourse in this way can lend legitimacy to one's cause, and have powerful constitutive impact on the individuals making those claims (Goldberg-Hiller and Milner 2003; Dudas 2008; Mello 2015, 2016). By depicting the civil rights movement as a zero-sum game in which granting rights to African Americans necessarily takes rights away from others, white southerners were able to create a conception of themselves as victims of oppression, heroically standing up for their fundamental rights (Kruse 2005). Though this logic was powerful for many southern whites, its appeal was more muted outside the Deep South. This may be because it was frequently paired with overtly racist language, which alienated many northern voters and undermined its effectiveness.

The Suburban Strategy

In the aftermath of the civil rights movement, New Right⁵ conservatives such as Barry Goldwater sought to capitalize on the ambivalent racial attitudes of white moderates by using coded racial appeals to make inroads for the Republican Party. This approach has often been called the “southern strategy” (Edsall and Edsall 1992; Carter 1996; Mayer 2002; Lowndes 2008). Lassiter argues, however, that this

4. In the short term, integrating neighborhoods frequently increased their value, as blacks would typically pay more than whites for homes that were located in “white” neighborhoods (Kruse 2005, 65). Prices usually declined over time, though, because whites felt that allowing blacks into these neighborhoods would inevitably reduce their quality. This attitude often became a self-fulfilling prophecy. Kruse describes, for example, how the Mozley Park neighborhood of Atlanta suffered neglect once it transitioned from being primarily white to primarily black. Since government officials assumed that the neighborhood would inevitably become a slum, they reduced funding for public accommodations like parks and schools, and rezoned the area to allow for the construction of housing projects and large multifamily units, further driving down home values (Kruse 2005, 73–77).

5. The New Right emerged during the 1960s out of frustration with an establishment Republican Party that many conservative Americans saw as unable, or unwilling, to effectively challenge the Democratic New Deal Coalition. Members of what was, at the time, a radical movement called themselves the “New Right” as a way of separating themselves from what they saw as the elitist, intellectual, and far too moderate “Old Right” (Crawford 1980, 7).

is a problematic misnomer.⁶ Calling this approach a southern strategy mistakenly casts racial politics as a game played only in the South, and ignores the fact that this strategy was just as effective with white voters in the North. Lassiter contends that the New Right's approach was less "southern" and more "suburban." Conservative candidates carefully crafted racial messages that would appeal to suburban middle-class whites who gave tacit approval to civil rights, but who felt threatened by efforts to combat structural inequality (Lassiter 2006, 223–323; Crespino 2012).

One of the first candidates to have success with this approach at the national level was Richard Nixon during his 1968 campaign. Nixon had always expressed public support for African American civil rights.⁷ He understood, however, that many whites in both the North and the South had mixed feelings about the civil rights movement. Under the advice of his strategist Kevin Phillips, he crafted a careful message that appealed to the racial concerns of white moderates without appearing overtly racist.⁸ Nixon claimed to be speaking for the "forgotten Americans," and later the "silent majority." He argued that the rights of this virtuous majority were under attack from a variety of deviants, including irresponsible protestors, violent rioters, and undeserving welfare recipients (Mason 2004, 248–55). Nixon promised to rein in these deviants by bringing more law and order to the nation, an argument that played on the fears of many Americans who believed that race riots, antiwar protests, and the increasingly militant black power movement had left the nation teetering on the brink of anarchy (Perlstein 2008). While these arguments had the appearance of being race neutral, the promise of law and order was interpreted by many Americans as a promise that Nixon would crack down on racial minorities, who were seen as causing most of the unrest (Carter 1996, 29–30; Beckett 1997; Alexander 2010). Nixon also called for welfare reform, arguing that entitlement programs created a culture of dependency, decreased personal responsibility, and increased crime. Again, this promise was directed at racial minorities,

6. Only Barry Goldwater (in 1964) and George Wallace (in 1968) can be said to have used a truly "southern strategy." Their presidential campaigns emphasized their opposition to civil rights in the hopes of capitalizing on the racial concerns of white southerners. Both failed to garner widespread support. Goldwater's rejection of the Civil Rights Act caused many in the North to perceive him as supporting racism (Lassiter 2006, 230–32). Though he won five Deep South states, his racial politics cost him votes, not just in the North, but in the Border South states as well. Richard Nixon himself later remarked to his biographer that "Goldwater ran as a racist candidate and he won the wrong [southern] states" (as quoted in Carter 1996, 27). Although some scholars have suggested that Wallace laid the groundwork for the New Right, and was thus the "most influential loser" of twentieth-century politics (Carter 1996), he was unable to overcome his reputation as an ardent segregationist and was never a serious threat to win the presidency.

7. Nixon first expressed public support for civil rights during his 1960 presidential campaign. During the campaign he met with New York Governor Nelson Rockefeller, and agreed to insert a strong civil rights plank into the Republican Party platform in exchange for Rockefeller's endorsement of his candidacy. This compromise, dubbed "the Surrender of Fifth Avenue," enraged many conservatives and fueled a last-minute attempt to draft the more conservative Goldwater for president. Goldwater himself squelched this movement, however, admonishing his supporters to "grow up and support Nixon" (Critchlow 2007, 51).

8. Phillips would later go on to write the influential book *The Emerging Republican Majority* (1969), based in large part on voting patterns he observed during the 1968 election. He found that northern working-class whites living in close proximity to African American communities felt most threatened by the civil rights movement. He argued that Republicans could form a winning electoral coalition by playing to the concerns of these whites.

who were often depicted as lazy individuals who would rather rely on such entitlement programs than earn an honest living (Gilens 1999; Hancock 2004).

While Nixon was the first Republican candidate to successfully implement this racial strategy, his role in helping create the modern Republican Party is often forgotten, both because of his reputation as a moderate⁹ and his ignominious exit after the Watergate scandal. Instead, Ronald Reagan is typically credited with the birth of the modern Republican Party. An ability to capitalize on white racial concerns was also a central component of Reagan's appeal. He infamously kicked off his 1980 presidential campaign by declaring, "I believe in states' rights" while speaking to a crowd in Philadelphia, Mississippi, a town in which three civil rights workers had been murdered by the Ku Klux Klan in 1964. The speech sent a clear signal that Reagan would support whites who opposed civil rights. Like Nixon, Reagan also used coded racial appeals to tap into white racial resentments while still appearing to be race neutral. He invoked racial stereotypes to communicate his message throughout his political career, telling, for example, tales of "Chicago welfare queens driving around in Cadillacs," and "strapping young bucks buying T-bone steaks with food stamps" (Gilens 1999; Hancock 2004).

These appeals to white moderates were successful in part because they shunned violence, and avoided overtly racist language, often using rights discourse to mask the discriminatory stereotypes that undergirded these arguments. New Right conservatives sought to blunt the impact of the civil rights movement by giving tacit approval to the idea of racial equality, while at the same time attempting to limit the scope of this change. They did this by narrowing the definition of equal rights to encompass only formal legal equality. Doing so allowed them to argue that racism *was* a problem in the United States, but one that had always been confined to the South, and was now solidly in the past (Hall 2005). With the dismantling of Jim Crow, many argued that the civil rights movement had accomplished its goals. They believed that we now lived in a "colorblind" society, and that race should no longer be taken into account when designing government policies (see, e.g., Sowell 1984, 2015; Roberts and Stratton 1995; McWhorter 2000).

When viewed in this light, efforts to ameliorate inequality by providing targeted benefits to minority populations are seen as illegitimate attempts to inject race into a "postracial" society. Such arguments allow New Right conservatives to co-opt the mantle of equal rights by framing themselves as the rightful defenders of the legacy of the civil rights movement, and framing those who support providing targeted benefits to historically oppressed minority groups as mandating equal outcomes at the expense of equal opportunities for white Americans (Crenshaw 1988; Hall 2005; López 2006, 143–62). This characterization ignores the harmful effects of the nation's legacy of racial discrimination and the persistent problem of implicit racial prejudice, instead recasting the achievement gap between white and minority populations as a product of a lack of personal responsibility and poor work ethic.

9. Nixon's stint as vice president during the moderate Eisenhower Administration and his support for internationalist foreign policy linked him, in the eyes of many New Right conservatives, to the eastern establishment of the "Old Right." As such, he was never fully embraced by the movement faithful (Critchlow 2007, 42–52).

As a result, structural inequality is seen as a natural and just byproduct of market forces, rather than as an illegitimate consequence of racial discrimination (Lassiter 2006, 121–23, 137–43).

Focus on the Black Family

The civil rights movement clearly improved the lives of many African Americans, but racial inequality remains a persistent feature of US life.¹⁰ New Right conservatives have successfully opposed efforts to address this inequality in part by arguing that it exists due to the deficiencies of poor and working-class black families, not as a result of discrimination. This argument may be particularly appealing to moderates because it emphasizes the traditional US values of individualism and self-reliance. The foundation for this argument was first introduced by Democratic politician Daniel Patrick Moynihan. In his 1965 report on “the Negro family,” he argued that poor and working-class black families were mired in a “tangle of pathology” (Moynihan 1965). Moynihan was particularly concerned with the fact that so many African American families lacked fathers. He argued that the “matriarchal pattern” of these families creates a sense of inferiority among African American men, leads to increased dependence on entitlement programs in black communities, and causes higher rates of delinquency and crime among African American youth (Moynihan 1965). These concerns continue to resonate today, with many conservatives identifying a decline in marriage rates among poor and working-class Americans as the cause of rising inequality (Blankenhorn 1996; Daniels 2000; Donovan 2011; Rubio 2015, 155–74).

Moynihan was not, himself, a conservative. He believed that the government needed to act to address poverty and racial inequality. He also acknowledged that the problems he saw with the black family were a product of social structure, rooting them in the legacy of slavery, a system that gave no legal recognition to marriages between slaves, and frequently separated slave children from their parents (Moynihan 1965). Yet, his report led many to cast the blame for racial inequality on African Americans themselves, framing it as an issue that they should deal with on their own, rather than as a societal problem in need of government attention. Perhaps the most influential of these voices was political scientist Charles Murray. In his book *Losing Ground* (1984), Murray argued that policies like affirmative action and welfare actually harm the poor because they take away incentives for hard work and personal responsibility—skills he saw as essential for escaping the “trap” of poverty.¹¹ This argument became a key justification for cutting social welfare spending during the 1990s. Many of these cuts were introduced by moderate

10. African Americans have an unemployment rate that is twice as high as whites (Bureau of Labor Statistics 2014), lower levels of educational success (Aud, Fox, and Kewal-Ramani 2010), and significantly higher rates of incarceration (Mauer 2011). African American families also have lower overall net worth than whites (Gordon 2014) and are twice as likely to meet the federal definition of poverty (Macartney, Bishaw, and Fontenot 2013).

11. This same logic continues to influence how many conservatives see the problem of racial inequality today (see, e.g., Sowell 2015).

Democratic President Bill Clinton. This suggests that these ideas have salience far beyond the conservative base.

These concerns resonate so strongly that they have even been internalized and advanced within the African American community. Actor and comedian Bill Cosby stirred controversy in 2004 when he gave a number of high-profile speeches lamenting the existence of a defective black culture. He argued that poor and working-class black communities often glorify irresponsible behavior and that it is this culture, not racism, which is responsible for the achievement gap between blacks and whites (Cosby 2004). Cosby's position drew criticism as "elitist" from some (Dyson 2006), but many within the African American community continue to argue that culture is at least partially responsible for the lack of black success. Barack Obama, for example, has often acknowledged that racism remains a problem in the United States, but he has also called on black communities to do more to encourage positive behavior. He received much applause for his 2008 "Father's Day Speech" in which he echoed many of Cosby's concerns, lamenting that so many black fathers had "abandoned their responsibilities, acting like boys instead of men" (Obama 2008). Obama is not suggesting here that racial inequality is the sole byproduct of "deviant" black families; however, his concession that black family structures contribute to racial inequality is testament to the considerable power that this narrative has with many Americans from both ends of the political spectrum.

II. THE HETEROSEXUAL MODERATE AND THE GAY RIGHTS MOVEMENT

The legacy of the civil rights movement continues to shape the way we think and talk about equal rights in the United States today. As such, understanding how the white moderate responded to efforts to promote racial equality can also help us understand the current debate over gay rights. As was the case with African American civil rights, the struggle for gay rights has been shaped powerfully by the opinions of moderates. At the outset of the gay rights movement, most Americans viewed gays and lesbians as "deviants" who threatened traditional family values by challenging established norms of gender and sexuality (Self 2012). Initially, many gay rights activists embraced this conception, championing the cause of "gay liberation," and aggressively challenging traditional gender and sexual norms (see, e.g., Wittman 1970). This approach was empowering for some, but it also helped reinforce the image of gays and lesbians as deviant "outsiders" and proved counterproductive to efforts to bring about change (Herman 1997; Fejes 2008; Self 2012). In an effort to alleviate these concerns, many gay rights activists began embracing a more moderate strategy designed to frame gays and lesbians as supporting traditional family values, not challenging them. Although this strategy has resulted in increased public support for gay rights, it risks alienating those gays and lesbians who do not fit this mold (Warner 1999; Polikoff 2003; Murray 2012; Vaid 2012; Franke 2015).

Anthony Kennedy: Reluctant Gay Rights Radical

Taking a moderate approach toward gay rights has proven to be an effective strategy when arguing this issue before the US Supreme Court. Gay rights advocates

have won a number of cases thanks to the support of moderate Justice Anthony Kennedy, who authored four landmark gay rights decisions (*Romer v. Evans* 1996; *Lawrence v. Texas* 2003; *United States v. Windsor* 2013; *Obergefell v. Hodges* 2015) and, as such, has arguably done more to improve the lives of gays and lesbians than any other person in America. Kennedy would seem to be an unlikely champion for gay rights, however. He was appointed to the Court in 1988 by President Reagan, after earning a reputation as a conservative jurist. Prior to joining the Court, Kennedy had been active in Republican politics in his home state of California. A devout Catholic, he personally supports that church's conservative views on abortion and homosexuality (Toobin 2008, 62–63, 220–21). Yet, in spite of his conservative background, Kennedy has shown a willingness to side with the cause of gay rights, provided this cause is framed in a way that fits his conception of the Constitution.

Proponents of gay rights have not always been so successful at courting the votes of moderate justices. In the case of *Bowers v. Hardwick* (1986), which concerned Georgia's sodomy law, gay rights activists failed to capture the votes of either Sandra Day O'Connor or Lewis Powell, both justices with moderate reputations. This is in large part because the case was framed narrowly as involving only a "fundamental right to sodomy." In previous cases, the Court had found that a right to privacy protected heterosexual couples in intimate relationships, but the majority declined to extend those same protections to gays and lesbians. Instead, they distinguished this case from previous decisions on the grounds that relationships between gays and lesbians were different from those of heterosexuals. According to them:

none of the rights announced in [previous] cases bears any resemblance to the claimed constitutional right of homosexuals to engage in acts of sodomy that is asserted in this case. No connection between family, marriage, or procreation, on the one hand, and homosexual activity, on the other, has been demonstrated, either by the Court of Appeals or by respondent. (*Bowers v. Hardwick* 1986, 191–92)

This suggests that the Court dismissed the privacy claims of gays and lesbians because it saw them as representing sexual practices that were at odds with traditional norms—implying that gays and lesbians were more interested in sexual exploration than in forming long-term relationships.

When the issue of sodomy was revisited by the Court in *Lawrence v. Texas* (2003), proponents of gay rights made a conscious decision to address these concerns. They framed the case as about granting gays and lesbians the right to form long-term committed relationships, of which sexual intimacy is but one important component (Carpenter 2012, 185–95).¹² Kennedy seemed responsive to this approach. In his majority opinion, he dismissed the logic offered by the Court in *Bowers* as based on outmoded stereotypes:

12. In briefs presented to the Court, *Lawrence's* attorneys actively minimized discussions of sex, instead using words like "intimacy," "relationships," and "family." Anal and oral sex were mentioned only four times in the cert petition filed in this case, while intimacy was used sixty times, relationship thirty-five times, and family fifteen times (Carpenter 2012, 193).

To say that the issue in *Bowers* was simply the right to engage in certain sexual conduct demeans the claim the individual put forward, just as it would demean a married couple were it to be said marriage is simply about the right to have sexual intercourse When sexuality finds overt expression in intimate conduct with another person, the conduct can be but one element in a personal bond that is more enduring. The liberty protected by the Constitution allows homosexual person the right to make this choice. (*Lawrence v. Texas* 2003, 567)

Kennedy expressed a similar view of gay relationships as reflective of traditional family values in *Obergefell v. Hodges* (2015). Here he argues that preventing gay couples from marrying undermines these values by humiliating and stigmatizing gay families, negatively impacting the children being raised in these households. This is a reversal of the traditional stereotype of gays and lesbians as posing a threat to children (Jenkins 2004; Fejes 2008).

Appealing directly to Kennedy in these cases has yielded positive results for gay rights activists, but this strategy presents some problems as well. Kennedy's support for gay rights is qualified. His willingness to recognize these rights claims is strongest when the gays and lesbians in question are thought to be adhering to traditional family values. Some have criticized his decision in *Lawrence*, for example, as "domesticizing" the liberty of gays and lesbians by recognizing it only when it appears in the context of a committed relationship (Franke 2004). This implicitly casts as invalid the intimacy that occurs outside these bonds. From a legal perspective, Kennedy's opinions also pose problems because he has been unwilling to recognize gays and lesbians as a "suspect class." This prevents them from using the Equal Protection Clause to create broader protections, as has been done for race and gender (Gerstmann 1999). As a result, the gay rights movement has been forced to base its constitutional claims on the right to privacy implicit in the Due Process Clause. This only increases the importance of traditional family values to the movement, as those privacy rights are most likely to be recognized when made by individuals in committed relationships.

Focus on the Gay Family

Same-sex marriage burst onto the national scene in 1996 after Hawai'i Judge Kevin Chang ruled that the state could not deny same-sex couples the right to marry (*Baehr v. Miike*).¹³ The decision helped transform marriage equality from a fringe issue to the focal point of the gay rights movement (Chauncey 2004). Unfortunately for gay rights activists, however, it also generated considerable backlash. Congress overwhelmingly approved the federal Defense of Marriage Act later that year, and many states began passing constitutional amendments defining

13. This decision was stayed pending further review. The issue became moot two years later when Hawai'i voters passed a constitutional amendment giving the state legislature the exclusive power to define marriage. The Hawai'i State Legislature passed a bill defining marriage as between "one man and one woman" in 1998. In 2013, the legislature overturned this statute and legalized same-sex marriage in the state.

marriage as between “one man and one woman.” As was the case with the civil rights movement, opponents of same-sex marriage enjoyed success initially by using rights discourse to capitalize on longstanding stereotypes of gays and lesbians as deviant, without making overtly discriminatory appeals. Opponents of same-sex marriage often framed gay rights as “special rights” and argued that these “excessive demands” infringed on the legitimate rights of responsible, disciplined citizens (Schacter 1994; Goldberg-Hiller and Milner 2003). They argued that gays and lesbians sought to “redefine marriage for everyone else,” and that such demands infringed on the parental rights and religious liberty of those who disagree with them (see, e.g., Sprigg 2006; Gallagher 2007). Using rights discourse in this way lends increased legitimacy to these arguments, making them seem more acceptable to a moderate audience (Mello 2015, 2016).

Proponents of same-sex marriage may have helped reinforce the perception of gay rights as “excessive” by basing their initial support for marriage equality on appeals to fairness and equal rights. These early efforts often focused on the need to grant marriage rights to gays and lesbians in order to alleviate discrimination and allow same-sex couples practical benefits such as tax breaks or hospital visitation rights (see, e.g., *No on Prop. 8* 2008; *Equality Maine* 2009). Polling data collected by Freedom to Marry (FTM), a national organization advocating on behalf of marriage equality, suggests that these arguments perpetuated the notion that gays and lesbians wanted to get married for the “wrong” reasons, and that allowing them do so would undermine the rights of others. Their research revealed that many heterosexual people thought that their marriage was about “love and commitment,” but believed that gays and lesbians wanted to marry for “selfish reasons” such as “access to rights and benefits” (Hatalsky and Trumble 2012, 5–8).

These insights were put to use during the 2012 elections, when voters considered same-sex marriage ballot measures in five states. Coming into these elections, gay rights advocates had gone 0–31 in same-sex marriage ballot measure campaigns. In an effort to reverse this trend, supporters of marriage equality designed advertisements that communicated the message that same-sex couples wanted to marry for reasons of family, love, and commitment; they avoided using the language of rights. These advertisements typically featured heterosexual couples talking about their family and describing why marriage is important to them. They then explain that gay couples want the same things, and should be able to enjoy these same experiences, often speaking emotionally about a gay friend or family member whom they would like to see be able to marry “just like everyone else” (Mainers United for Marriage 2012; Washington United for Marriage 2012).

It is impossible to know for certain how much of an impact the shift away from a rights-based strategy had on the outcome of these elections, but this approach does seem to have been effective. Proponents of marriage equality won four out of five ballot measure campaigns in 2012, and exit polling data suggest that the strategic decision to shift the campaign’s message away from rights and onto family was an important component of this success. Polls found that only 26 percent of voters who believed same-sex couples wanted to marry primarily so they could have “rights and benefits” voted in favor of same-sex marriage, while 85 percent of voters who said gay couples wanted to marry for reasons of “love and

commitment” supported marriage equality (Hatalsky and Trumble 2012, 6). This suggests that these campaigns succeeded at least in part because they were able to convince moderates that same-sex couples had the same values and wanted to enjoy the same lifestyle as they did.

Framing same-sex marriage using the discourse of family instead of rights had instrumental value for these campaigns, but this strategy has some problematic constitutive implications. Although this approach appears to have been successful, it suggests that members of minority groups should avoid making rights claims when arguing their cause in a popular environment, or risk being seen as making excessive demands. This is troubling because many scholars have argued that rights claiming empowers members of oppressed minority groups by allowing them to actively construct an identity of themselves as full and equal citizens who are entitled to the same rights and protections as everyone else (McCann 1994; Passavant 2002; Engel and Munger 2003). In addition to minimizing the use of rights discourse, these campaigns also sought to minimize voters’ exposure to gays and lesbians by making heterosexuals the face of the campaign (Condon 2012). This decision also indicates that the people in charge of these campaigns believe that many Americans remain uncomfortable with the concept of homosexuality, and reinforces an image of gays and lesbians as outsiders. It also suggests that while tolerance for the concept of same-sex marriage is increasing, widespread acceptance of gays and lesbians may remain elusive.

Rights as Contingent Resources

The debate over marriage equality in the United States appears to be nearing its end. The US Supreme Court has ruled that same-sex couples have a fundamental right to marry the person of their choosing (*Obergefell v. Hodges* 2015), and a majority of Americans now say that they are in favor of same-sex marriage (Gallup 2014). The significance of this accomplishment should not be understated. Marriage provides considerable practical benefits to same-sex couples and their children (Rauch 2004; Badgett 2010). Same-sex marriage may also have important symbolic impact on the way gays and lesbians are perceived by others. In a recent public opinion poll, 36 percent of respondents indicated that they had become “more accepting” of gays and lesbians “over the past few years” (Gallup 2014). While it is impossible to know conclusively why this change has occurred, it is reasonable to assume that an emphasis on marriage equality is at least one factor that has led to increased tolerance for gays and lesbians.

The success of the drive for marriage equality has not been without costs, however. Focusing the gay rights movement on the narrow goal of obtaining the right to marry is problematic because marriage is not a priority for all gays and lesbians. Queer theorists have long argued that marriage is a “heteronormative” institution that represents the antithesis of the calls for sexual liberation that emerged as the driving force behind the gay rights movement in the early 1970s (Warner 1999). They contend that the push for marriage equality threatens to divide gays and lesbians into those who are deemed acceptable because they choose to marry and form

traditional nuclear family units, and the “deviant” gays who defy those roles (Warner 1999; Polikoff 2003; Murray 2012; Franke 2015). The fact that widespread support for marriage equality has come only after gays and lesbians put increased emphasis on the importance of traditional family values lends credence to this perspective. Some supporters of marriage equality have even gone so far as to explicitly endorse this idea, offering same-sex marriage as an antidote for a sexually deviant gay lifestyle. For example, in his 2004 book, journalist Jonathon Rauch, who is himself gay, argues that marriage is “good for gays” because it “civilizes” them, encourages them to abandon their reckless sexual behavior, and helps them to “mature” (Rauch 2004, 64–68, 75–80).

In addition to silencing queer perspectives, focusing the gay rights movement on same-sex marriage also privileges the desires of wealthy and middle-class gays, ignoring pressing socioeconomic issues within the gay community (Vaid 2012). Marriage, an issue that was not a priority for most gays and lesbians until very recently (Chauncey 2004), became the focus of the gay rights movement in large part because it matched the interests of wealthier Americans. As marriage rates continue to decline in the United States, it has increasingly become an institution used primarily by college-educated individuals, who tend to be more affluent.¹⁴ Gays and lesbians are no different in this regard. Although many middle- and upper-income gays and lesbians have clamored for marriage equality, marriage is far less common among the poor and working class. For these gays, marriage equality is often seen as a “luxury” and practical issues like safe streets, decent jobs, and access to health care typically take precedence over it (Stein 2013).

Prioritizing the desires of more affluent gays and lesbians over the needs of the poor and working class masks deep economic divides within the gay community. Gays and lesbians are often stereotyped as being predominately affluent (Badgett 2001). Studies show, however, that poverty is at least as common among gays and lesbians as it is in the general population.¹⁵ In fact, they may be more vulnerable to economic distress than other groups because of pervasive discrimination, lack of access to health insurance, less family support, and the likelihood of family conflict over coming out (Burwick et al. 2014). It is possible that legalizing same-sex marriage will indirectly benefit poor individuals by reducing discrimination against gays

14. A recent poll conducted by the Pew Research Center found that adults with at least a bachelor's degree were the most likely to be “newly married” (56.7 per 1,000 marriage-eligible individuals), while high school graduates (30.1 per 1,000 marriage-eligible individuals) and those with less than a high school diploma (23.4 per 1,000 marriage-eligible individuals) were significantly less likely to marry. This is a considerable change from the 1970s when there was little difference in marriage rates between college-educated and non-college-educated adults (Fry 2014).

15. In many respects, gays and lesbians are significantly more impoverished than the general population. A recent study found that 15.3 percent of heterosexual men and 21.1 percent of heterosexual women were living at or below the federal poverty line. In contrast, 20.5 percent of gay men, 22.7 percent of lesbians, 25.9 percent of bisexual men, and 29.4 percent of bisexual women were living at or below the federal poverty line (Badgett, Durso, and Schneebaum 2013, 8–9). Another study found that an estimated 40 percent of homeless youth identify as LGBT (Durso and Gates 2012). Children of LGBT parents are particularly vulnerable to economic distress. One study found that LGBT individuals raising children in single-parent families are three times as likely to be living near the poverty line as their heterosexual counterparts, and LGBT couples raising children in two-parent households are twice as likely to be living in poverty as partnered opposite-sex couples (Gates 2013).

and lesbians generally, but the experience of African Americans after the civil rights movement suggests that the symbolic benefits of movement victories do not necessarily flow equally to those living on the margins (Franke 2015). A few activists have focused on improving the lives of poor gays and lesbians, but they typically pay little attention to issues like marriage equality, advocating instead for things like greater access to public assistance and increases in government-sponsored support services (Queers for Economic Justice 2009).

Urvashi Vaid posits that mainstream gay rights organizations like the Human Rights Council focus primarily on the interests of middle- and upper-class gays and lesbians because these individuals have greater access to elites, and more resources at their disposal—giving them more influence over the political process (Vaid 2012, 77–84). Although the gay rights movement's embrace of marriage equality is partly a reflection of its leadership's middle-class bias, it is also likely a reflection of the fact that framing gay rights as benefiting these groups has proven to be a winning strategy in the past. This may be because middle-class gays and lesbians are seen by most average Americans as “deserving individuals” who share the same values as them and thus do not pose a threat to the established order. There may be less desire to help poor and working-class gays and lesbians because the issues facing them are thought to be a product of their own individual failings, not the result of discrimination.

The drive for marriage equality has the potential to exacerbate these perceptions. Many conservatives have, for example, posited a connection between the plight of poor and working-class Americans and a lack of support for marriage (see, e.g., Blankenhorn and Rauch 2013; Rubio 2015, 155–74). Some have blamed a lack of strong traditional values for rising economic inequality within the gay community, and argued that the solution is not government action to redress this inequality, but encouraging gay individuals of all economic classes to adopt these traditional values by embracing marriage (Blankenhorn and Rauch 2013).¹⁶ This framework places the blame for economic inequality squarely on the individual, eliminating the need to address larger structural causes of inequality or confront the persistent problem of discrimination. It also shows that though Americans often treat social and economic issues as discrete, they are in fact closely connected (Self 2012). One's ability to be seen as a legitimate citizen, entitled to the same rights and benefits as everyone else, rather than as a lazy and undeserving other, may be contingent on one's socioeconomic status.

III. CONCLUSION

The civil rights movement is typically celebrated as the best example of the liberating power of rights. Examining this movement from the perspective of the

16. Many scholars have disputed this logic, arguing that there is little evidence to suggest that encouraging poor people to marry will improve their economic situation. In fact, because people typically marry within their own economic class (Greenwood et al. 2014), encouraging those living in poverty to marry may only increase economic distress, as a poor person struggling to survive on his or her own may now be forced to support an entire family on that same meager income (Williams 2014). While studies clearly show a connection between marriage and income, they find that economic success increases the likelihood that individuals will marry, rather than, as conservatives often argue, marriage increasing the economic success of individuals (Cherlin 2014).

white moderate, however, complicates this view somewhat. It suggests that the civil rights movement has not impacted all African Americans equally. Although many middle-class blacks have been able to use newly won rights to gain greater societal acceptance, policies designed to benefit poor and working-class African Americans have typically failed to garner widespread support. This result suggests a complicated interplay between class, race, and rights. I argue that moderate Americans have shown a willingness to accept racial inequality, so long as this inequality is seen as a legitimate product of individual choices, rather than as a consequence of illegitimate racial discrimination. Many opponents of policies designed to ameliorate racial inequality have sought to capitalize on this attitude by using rights language to depict white moderates as the true victims of racial oppression and depict poor and working-class blacks as lazy and undeserving others. Though these arguments may be built on implicit discriminatory stereotypes, they avoid overtly racist appeals, making them particularly difficult to defeat. These arguments depict the United States as a “postracial” society, downplaying the continuing impact of racial discrimination and suggesting that rights are not granted to everyone equally, but are given only to those citizens thought by the majority to be deserving of them.

A similar dynamic can be seen in the current debate over gay rights. The fact that the gay rights movement’s recent victories have come by way of winning access to conservative institutions such as marriage and the military suggests that the opinions of moderate Americans continue to constrain both the scope and pace of movements for social change. The US public has shown an increasing willingness to accept gays and lesbians, so long as they conform to widespread notions of good citizenship by taking part in “acceptable” activities like getting married. Those who do not fit this ideal, however, may face continued discrimination in the future. As was the case with racial equality, class has played an important role in shaping the debate over gay rights. Marriage has increasingly become a middle-class institution, meaning that poor and working-class gays, who are least likely to marry, are unlikely to see as many tangible benefits from the movement’s recent obsession with the cause of marriage equality. This argues for an understanding of rights as contingent resources, accruing to those who prove they deserve them by exhibiting behavior that is deemed acceptable to the majority.

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